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EXAMINER

SHEPARD, JUSTIN E

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 06/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/821,183	Applicant(s) GUTTA ET AL.	
	Examiner Justin E. Shepard	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9,11-19,21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9,11-19,21 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 5/3/06 have been fully considered but they are not persuasive.

The applicant argues (page 11) that the combination of Imagawa and Herrington does not meet the limitations of claims 1, 6, 11, 16, 21, and 22; specifically that the references fail to teach the analysis of information external to a user which includes a feature of media on a device or media player and basing decisions on any feature of the media being controlled. Imagawa discloses a system for monitoring a user's gesture for controlling a device. Also disclosed by Imagawa is the idea that a user's identity can be used to limit that individual's use of the device. The example given is that if the user is a child, that user will not be able to use the television after 9pm. Herrington discloses a system with multiple account parental control features. The combination of the use limiting system taught by Herrington with the use limiting disclosed by Imagawa is a valid combination. In figure 4B of Herrington, the ability to restrict programming based on the rating is taught. The rating is being interpreted as additional information external to said user that includes at least one feature of the media. Using the idea of the rating is used to restrict the programming that the user is allowed to view meets the limitations of the analysis of information external to a user (program ratings) which includes a feature of media on a device or media player and basing decisions on any feature of the media being controlled (not allowing users to view a program if the rating exceeds a ratings limit). The rejection stands.

The applicant argues that there would not be any motivation to combine the references, but the motivation used in the rejection is valid and comes from the primary reference. The rejection stands.

The remaining arguments pertain to the claims dependent from rejected claims 1, 6, 11, 16, 21 and 22 and are therefore moot in light of the fact that the rejection of these claims is valid.

The rejections from the previous office action follow.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 5, 6, 11, 15, 16, 21, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Imagawa in view of Herrington.

As for Claim 1, Imagawa et al. teaches a method for controlling a media player (see col. 5 lines 17-25 "There may be one or several candidates. If, for example, the person selected as the operator is pointing toward an air conditioner and a television, both of them are to be controlled . . . for example, the uttered word "television" allows a television (or televisions) to be used as a candidate for a control object."), comprising: establishing at least one rule defining a predefined user activity, said rule including at least one condition and additional information external to a user, an identity of a person

other than said user (column 4, lines 14-17; Note: identifying the user representing the top priority is interpreted as identifying other users as the system would have to identify each person and select a user from the group); and said rule including an action item to be performed to automatically adjust said media player when said rule is satisfied (see col. 1 lines 47- 63 "This invention provides a control method characterized in that the attributes of one or several people are continuously or intermittently monitored to control predetermined equipment based on the detection of the people's predetermined attribute"); analyzing at least one of audio and video information focused on a user to identify said condition (see col. 2 lines 31-40 "the monitoring section 1 continuously monitors people's attributes and their peripheral environment. The people's attributes include people's positions, postures, faces, expressions, eyes or head directions, motions, voices, physiological conditions. . ."); and performing said action item if said rule is satisfied (see col. 11 lines 52-62 "When a person picks up the telephone receiver, the control object candidate determination section 3 determines as a candidate the television that outputs sound, and the control content candidate determination section 4 determines the reduction of the sound volume as a candidate for the content of control.").

Imagawa does not disclose a system wherein the additional information external to said user includes at least one of features of media on said media player.

Herrington discloses a system wherein the additional information external to said user includes at least one of features of media on said media player (figure 4B).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the rating restriction from Herrington to the system disclosed by Imagawa. The motivation would have been that the system allows individuals to be identified (Imagawa: column 10, lines 40-45) and the programming restricted for specific users. Herrington discloses a system where a person is restricted to certain program ratings depending on their identity.

The amended portions of claims 6, 11, 16, 21, and 22 are rejected on the same grounds as the amended portion of claim 1.

As for Claim 5 Imagawa et al. teach said user activity is a predefined gesture command and said action item is the issuance of a corresponding command to said media player (see col. 11 lines 52-58 "When a person makes a motion of applying forefinger to the front of the mouth or plugging the ears with the hands, the control object candidate determination section 3 determines as a candidate the television that outputs sound, and the control content candidate determination section 4 determines the reduction of the sound volume as a candidate for the content of control.").

As for Claim 6, Imagawa et al. teaches a method for controlling a media player, comprising: analyzing at least one of audio and video information focused on a user to identify at least one predefined user activity (see col. 1 lines 47-63 "This invention provides a control method characterized in that the attributes of one or several people are continuously or intermittently monitored to control predetermined equipment based on the detection of the people's predetermined attribute"); and performing a predefined action item to automatically adjust said device when said user activity is identified (see

col. 11 lines 51-62 "When a person makes a motion of applying forefinger to the front of the mouth or plugging the ears with the hands, the control object candidate determination section 3 determines as a candidate the television that outputs sound, and the control content candidate determination section 4 determines the reduction of the sound volume as a candidate for the content of control.").

As for Claim 11, the limitations of Claim 11 can be found in the limitations of Claim 1. Claim 11 is analyzed and rejected as previously discussed with respect to Claim 1. Claim 11 further requires: a system for controlling a media player, comprising: a memory for ' storing computer readable code (see Imagawa col. 4 lines 24-28 "the operator selection section 2 may determine an evaluation value for each person based on an evaluation method predetermined based on people's attributes in order to select a person having an evaluation value that is larger than a reference value and that is also the largest". It is inherent that the operator selection section 2 has a memory for storing computer readable code that is used to store the person's evaluation value); and a processor operatively coupled to said memory (it is inherent that the operator selection section 2 has a processor that is operatively coupled to said memory that will compare to judge the person's evaluation value is larger than a reference value).

As to Claim 15, the limitations of Claim 15 can be found in the limitations of Claim 5. Claim 15 is analyzed and rejected as previously discussed with respect to Claim 5.

As for Claim 16, the limitations of Claim 16 can be found in the limitations of Claim 6. Claim 16 is analyzed and rejected as previously discussed with respect to Claim 6. Claim 16 further requires: a memory for storing computer readable code (see

Imagawa col. 4 lines 24-28 "the operator selection section 2 may determine an evaluation value for each person based on an evaluation method predetermined based on people's attributes in order to select a person having an evaluation value that is larger than a reference value and that is also the largest. It is inherent that the operator selection section 2 has a memory for storing computer readable code that is used to store the person's evaluation value); and a processor operatively coupled to said memory (It is inherent that the operator selection section 2 has a processor that is operatively coupled to said memory that will compare to judge the person's evaluation value is larger than a reference value).

As for Claim 21, the limitations of Claim 21 can be found in the limitations of Claim 1. Claim 21 is analyzed and rejected as previously discussed with respect to Claim 1. Claim 21 further requires: a computer readable medium having computer readable code means embodied thereon (see Imagawa col. 4 lines 24-28 "the operator selection section 2 may determine an evaluation value for each person based on an evaluation method predetermined based on people's attributes in order to select a person having an evaluation value that is larger than a reference value and that is also the largest". It is inherent that the operator selection section 2 has a memory for storing computer readable code that is used to store the person's evaluation value).

As for Claim 22, the limitations of Claim 22 can be found in the limitations of Claim 6. Claim 21 is analyzed and rejected as previously discussed with respect to Claim 6. Claim 21 further requires'. a computer readable medium having computer readable code means embodied thereon (see Imagawa col. 4 lines 24-28 "the operator

selection section 2 may determine an evaluation value for each person based on an evaluation method predetermined based on people's attributes in order to select a person having an evaluation value that is larger than a reference value and that is also the largest". It is inherent that the operator selection section 2 has a memory for storing computer readable code that is used to store the person's evaluation value).

Claims 2, 7, 12, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Imagawa in view of Herrington as applied to claims 1, 5, 6, 11, 15, 16, 21, and 22 above, and further in view of DeVito.

As for Claims 2, 7, 12, 17, and 18 the claims differ in that Imagawa do not expressly teach said user activity suggests that said user is not paying attention to said media player and said action item is the issuance of a command to pause said media player. However, in the same field of endeavor, DeVito teaches a method and apparatus for measuring and analyzing the psychological states of a subject and using the gathered information to control devices, such as media players. See DeVito (0003) "the present invention relates to the measurement and real-time analysis of bioelectrical signals for interaction with electronic media, such as motion pictures, digital video, video games," and (0010) "A presence detecting function which senses the relationship of a subject to a predetermined space may be used to select an object or appliance to be controlled within a space. The control signals may be used to affect objects e.g., a compact disk player," and also (0112) "Additionally, a delay may be specified which causes the movie to pause for the specified duration before proceeding to the next

scene or set. Such a delay may be used, for example, to wait for a change in the subject's emotional state, which change then directs the branching of the movie to the next scene." And also see (0116) "The script may also specify that playback should halt until a specified criteria is satisfied. One example is a rapid eye movement ("REM") trigger, which is particularly useful for use with interactive dream movies or for triggering dream stimulus . . . Another example may be to wait for the beta band power and the median beta frequency to exceed thresholds indicating the viewer is paying attention." Clearly, DeVito teaches analyzing the emotional state of a subject that comprises pausing or halting playback of a media player when the emotional state of the user indicates that the user is not paying attention to the media player. In light of the teaching of DeVito, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Imagawa et al. to have the media player be paused in response to an indication that the user is not paying attention to the media player. One of ordinary skill in the art at the time the invention was made would have been motivated to do this in order to not have a user missing a programming that is displayed on a media player, when it is determined that the user is not paying attention to the media player.

Claims 3, 8, 13, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Imagawa in view of Herrington in view of DeVito as applied to claims 2, 7, 12, and 17 above, and further in view of Pijnenburg.

Claims 3, 8, 13, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Imagawa in view of DeVito in further view of Pijnenburg.

As for Claim 3, 8, 13, and 18, the claims differ in that neither Imagawa et al. nor DeVito expressly teach said user activity suggests that said user is not paying attention to said media player and said action item is the issuance of a command to said media player to begin recording.

Pijnenburg discloses a television viewing system where recording starts when the player is paused (column 3, lines 57-59).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the ability to record when the system pauses, as taught by Pijnenburg, to the system that pauses when a level of interest is not detected as disclosed by Imagawa in view of DeVito. The motivation would have been to allow the viewer to leave unexpectedly, and not miss anything shown in the television program (Pijnenburg: column 3, line 58).

Claims 4, 9, 14, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Imagawa in view of Herrington as applied to claims 1, 5, 6, 11, 15, 16, 21, and 22 above, and further in view of Kimoto.

As for Claims 4, 9, 14, and 19 the claims differ in that Imagawa does not expressly teach said user activity suggests that said user is not paying attention to said media player and said action item is the issuance of a command to said media player to enter a power save mode. However, Kimoto et al. teaches a method and apparatus for

power saving modes for a media player (such a computer monitor) when the media player has been on, but not in use for a specified amount of time (see Kimoto et al. col. 1 lines 8-12 "In order to reduce power consumption, computer monitors have been designed having a power- save mode that is automatically selected after the monitor has been on, but not in use, for a long period of time." When the monitor has been on, but not in use, for a long period of time, this condition is interpreted as the user has not been paying attention to said media player for specified amount of time.) in light of the teaching of Kimoto et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Imagawa to issue a command to said media player to enter a power save mode when the user activity suggests that said user is not paying attention. One of ordinary skill in the art would have been motivated to do this in order to conserve energy consumed by the media player when the user is not paying attention to the media player. (see Kimoto et al. col. 1 lines 8-12 "In order to reduce power consumption, computer monitors have been designed having a power-save mode that is automatically selected after the monitor has been on, but not in use, for a long period of time.").

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within


TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin E. Shepard whose telephone number is (571) 272-5967. The examiner can normally be reached on 7:30-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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